

§ 304. Filing export information, delayed filings, penalties for failure to file

(a) The information or reports in connection with the exportation or transportation of cargo required to be filed by carriers with the Secretary of the Treasury under any rule, regulation, or order issued pursuant to this chapter may be filed after the departure of such carrier from the port or place of exportation or transportation, whether such departing carrier is destined directly to a foreign port or place or to a noncontiguous area, or proceeds by way of other ports or places of the United States, provided that a bond in an approved form in a penal sum of \$10,000 is filed with the Secretary of the Treasury. The Secretary of Commerce may, by a rule, regulation, or order issued in conformity herewith, prescribe a maximum period after such departure during which the required information or reports may be filed. In the event any such information or report is not filed within such prescribed period, a penalty not to exceed \$1,000 for each day's delinquency beyond the prescribed period, but not more than \$10,000 per violation shall be exacted. Civil suit may be instituted in the name of the United States against the principal and surety for the recovery of any penalties that may accrue and be exacted in accordance with the terms of the bond.

(b) Any person, other than a person described in subsection (a), required to submit export information, shall file such information in accordance with any rule, regulation, or order issued pursuant to this chapter. In the event any such information or reports are not filed within such prescribed period, the Secretary of Commerce (and officers of the Department of Commerce specifically designated by the Secretary) may impose a civil penalty not to exceed \$1,000 for each day's delinquency beyond the prescribed period, but not more than \$10,000 per violation.

(c) The Secretary may remit or mitigate any penalty incurred for violations of this section and regulations issued pursuant thereto if, in his opinion, they were incurred without willful negligence or fraud, or other circumstances justify a remission or mitigation.

(Added Pub. L. 87-826, §2, Oct. 15, 1962, 76 Stat. 952; amended Pub. L. 107-228, div. B, title XIV, §1404(e), Sept. 30, 2002, 116 Stat. 1454.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-228, §1404(e)(1), substituted “a penal sum of \$10,000” for “the penal sum of \$1,000” in first sentence and “a penalty not to exceed \$1,000 for each day's delinquency beyond the prescribed period, but not more than \$10,000 per violation” for “a penalty not to exceed \$100 for each day's delinquency beyond the prescribed period, but not more than \$1,000,” in third sentence.

Subsecs. (b), (c). Pub. L. 107-228, §1404(e)(2), (3), added subsec. (b) and redesignated former subsec. (b) as (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 305 of this title.

§ 305. Penalties for unlawful export information activities

(a) CRIMINAL PENALTIES.—

(1) FAILURE TO FILE; SUBMISSION OF FALSE OR MISLEADING INFORMATION.—Any person who

knowingly fails to file or knowingly submits false or misleading export information through the Shippers Export Declaration (SED) (or any successor document) or the Automated Export System (AES) shall be subject to a fine not to exceed \$10,000 per violation or imprisonment for not more than 5 years, or both.

(2) FURTHERANCE OF ILLEGAL ACTIVITIES.—Any person who knowingly reports any information on or uses the SED or the AES to further any illegal activity shall be subject to a fine not to exceed \$10,000 per violation or imprisonment for not more than 5 years, or both.

(3) FORFEITURE PENALTIES.—Any person who is convicted under this subsection shall, in addition to any other penalty, be subject to forfeiting to the United States—

(A) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in the goods or tangible items that were the subject of the violation;

(B) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in tangible property that was used in the export or attempt to export that was the subject of the violation; and

(C) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

(b) CIVIL PENALTIES.—The Secretary (and officers of the Department of Commerce specifically designated by the Secretary) may impose a civil penalty not to exceed \$10,000 per violation on any person violating the provisions of this chapter or any rule, regulation, or order issued thereunder, except as provided in section 304. Such penalty may be in addition to any other penalty imposed by law.

(c) CIVIL PENALTY PROCEDURE.—

(1) IN GENERAL.—Whenever a civil penalty is sought for a violation of this section or of section 304, the charged party is entitled to receive a formal complaint specifying the charges and, at his or her request, to contest the charges in a hearing before an administrative law judge. Any such hearing shall be conducted in accordance with sections 556 and 557 of title 5, United States Code.

(2) COMMENCEMENT OF CIVIL ACTIONS.—If any person fails to pay a civil penalty imposed under this chapter, the Secretary may request the Attorney General to commence a civil action in an appropriate district court of the United States to recover the amount imposed (plus interest at currently prevailing rates from the date of the final order). No such action may be commenced more than 5 years after the date the order imposing the civil penalty becomes final. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(3) REMISSION OR MITIGATION OF PENALTIES.—The Secretary may remit or mitigate any penalties imposed under paragraph (1) if, in the Secretary's opinion—

(A) the penalties were incurred without willful negligence or fraud; or

(B) other circumstances exist that justify a remission or mitigation.

(4) **APPLICABLE LAW FOR DELEGATED FUNCTIONS.**—If, pursuant to section 306, the Secretary delegates functions under this section to another agency, the provisions of law of that agency relating to penalty assessment, remission or mitigation of such penalties, collection of such penalties, and limitations of actions and compromise of claims, shall apply.

(5) **DEPOSIT OF PAYMENTS IN GENERAL FUND OF THE TREASURY.**—Any amount paid in satisfaction of a civil penalty imposed under this section or section 304 shall be deposited into the general fund of the Treasury and credited as miscellaneous receipts.

(d) **ENFORCEMENT.**—

(1) **BY THE SECRETARY OF COMMERCE.**—The Secretary of Commerce may designate officers or employees of the Office of Export Enforcement to conduct investigations pursuant to this chapter. In conducting such investigations, those officers or employees may, to the extent necessary or appropriate to the enforcement of this chapter, exercise such authorities as are conferred upon them by other laws of the United States, subject to policies and procedures approved by the Attorney General.

(2) **BY THE COMMISSIONER OF CUSTOMS.**—The Commissioner of Customs may designate officers or employees of the Customs Service to enforce the provisions of this chapter, or to conduct investigations pursuant to this chapter.

(e) **REGULATIONS.**—The Secretary of Commerce shall promulgate regulations for the implementation and enforcement of this section.

(f) **EXEMPTION.**—The criminal fines provided for in this section are exempt from the provisions of section 3571 of title 18, United States Code.

(Added Pub. L. 87-826, §2, Oct. 15, 1962, 76 Stat. 952; amended Pub. L. 107-228, div. B, title XIV, §1404(f)(1), Sept. 30, 2002, 116 Stat. 1455.)

AMENDMENTS

2002—Pub. L. 107-228 substituted “Penalties for unlawful export information activities” for “Violations, penalties” in section catchline and amended text generally. Prior to amendment, text read as follows: “Any person, including the owners or operators of carriers, violating the provisions of this chapter, or any rule, regulation, or order issued thereunder, except as provided in section 304 above, shall be liable to a penalty not to exceed \$1,000 in addition to any other penalty imposed by law. The amount of any such penalty shall be payable into the Treasury of the United States and shall be recoverable in a civil suit in the name of the United States.”

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 306. Delegation of functions

Subject to the concurrence of the head of the department or agency concerned, the Secretary may make such provisions as he shall deem appropriate, authorizing the performance by any officer, agency, or employee of the United States Government departments or offices, or the governments of any areas over which the United States exercises sovereignty, jurisdiction, or control, of any function of the Secretary, contained in this chapter.

(Added Pub. L. 87-826, §2, Oct. 15, 1962, 76 Stat. 952.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 305 of this title.

§ 307. Relationship to general census law

The following sections only, 1, 2, 3, 4, 5, 6, 7, 11, 21, 22, 23, 24, 211, 212, 213, and 214, of chapters 1 through 7 of this title are applicable to this chapter.

(Added Pub. L. 87-826, §2, Oct. 15, 1962, 76 Stat. 952.)

CHAPTER 10—EXCHANGE OF CENSUS INFORMATION

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| 401. | Exchange of census information with Bureau of Economic Analysis. |
| 402. | Providing business data to Designated Statistical Agencies. |

AMENDMENTS

2002—Pub. L. 107-347, title V, §526(b)(2), Dec. 17, 2002, 116 Stat. 2970, added item 402.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 9 of this title.

§ 401. Exchange of census information with Bureau of Economic Analysis

(a) **EXCHANGE OF INFORMATION.**—The Bureau of the Census shall exchange with the Bureau of Economic Analysis of the Department of Commerce information collected under this title, and under the International Investment and Trade in Services Survey Act, that pertains to any business enterprise that is operating in the United States, if the Secretary of Commerce determines such information is appropriate to augment and improve the quality of data collected under the International Investment and Trade in Services Survey Act. Information provided to the Bureau of Economic Analysis by the Bureau of the Census shall be only those data collected directly from respondents by the Bureau of the Census.

(b) **REQUESTS FOR INFORMATION.**—The Director of the Bureau requesting information under this section shall make the request in writing and shall certify that the information will be used only for statistical activities performed to improve the quality of data collected under the authority of title 13, United States Code, and the International Investment and Trade in Services Survey Act.

(c) **DEFINITION.**—As used in subsection (a), the terms “business enterprise” and “United